

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

WILFRED DREXAL DAVIS

PLAINTIFF

v.

2:20-cv-00002-KGB-JJV

RONNIE COLEMAN, *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Kristine G. Baker. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before either the district judge or magistrate judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the magistrate judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the magistrate judge.

3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the district judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Wilfred Drexal Davis (“Plaintiff”), currently incarcerated in the Crittenden County Detention Center, filed this action on January 6, 2020, alleging violations of his constitutional rights. (Doc. No. 1.) He did not, however, pay the filing fee or submit an Application to Proceed Without Prepayment of Fees and Affidavit (“Application to Proceed IFP”). On January 8, 2020, I directed Plaintiff to submit within thirty (30) days either the \$400 filing fee¹ or an Application to Proceed IFP, with a calculation sheet and certified copy of his trust fund account statement for the preceding six months. (Doc. No. 2.) I cautioned Plaintiff that his failure to comply with my Order may result in the dismissal of his case without prejudice. (*Id.*)

Plaintiff then filed an Application to Proceed IFP, but I denied the Application as incomplete because Plaintiff did not submit a calculation sheet or certificate signed by an authorized official of the Detention Center. (Doc. Nos. 4, 5.) On January 21, 2020, I directed Plaintiff to pay the filing fee or submit a proper and complete Application to Proceed IFP,

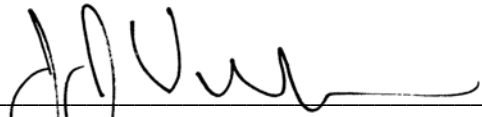
¹ Effective May 1, 2013, the cost for filing a new civil case is \$400. The increase is due to a new \$50 administrative fee, which does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.

including a calculation sheet and certified copy of his trust fund account statement. (Doc. No. 5.) I cautioned Plaintiff that his failure to comply with my Order may result in the dismissal of his case without prejudice. (*Id.* at 2.)

More than thirty days have now passed from the entry of my January 21, 2020 Order. Plaintiff has not complied with the Order. Plaintiff was warned that such failure could result in a recommendation that this action be dismissed without prejudice pursuant to Local Rule 5.5(c)(2).

IT IS, THEREFORE, RECOMMENDED that Plaintiff's Complaint (Doc. No. 1) be DISMISSED without prejudice and that the Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting this Recommendation and the accompanying Judgment would not be taken in good faith.

DATED this 3rd day of March 2020.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE